JOSEPH E. KARTH,
Member of Congress

WALTER FAUNTROY,
Member of Congress

DONALD RIEGLE,
Member of Congress

THOMAS REES,
Member of Congress

ROBERT LEGGETT,
Member of Congress

JAMES H. SCHEUER,
Member of Congress

PHILIP BURTON,
Member of Congress

PATRICK LUCEY,
Governor of Wisconsin

ROBERT QUINN,
Attorney General of Massachusetts

DAVID NORVELL, who joins the MEMORANDUM in his capacity as a private citizen rather than in his capacity as Attorney General of New Mexico

ED HARRIS,
State legislator, Texas.

ROBERT D. WATT,
State legislator, Montana

ROBERT K. HOLLIDAY,
State legislator, West Virginia

MICHAEL O'CONNOR,
State legislator, South Dakota

ALAN SIEROTY,
State legislator, California

JOHN VASCONCELLOS,
State legislator, California

JOHN MILLER,
State legislator, California

YVONNE BRAITHWAITE,
State legislator, California

JOHN BURTON,
State legislator, California

JOHN DUNLAP,
State legislator, California

CHARLES WARREN,
State legislator, California

KEN MEADE,
State legislator, California

HENRY WAXMAN,
State legislator, California

GOERGE ZENOVICH,
State legislator, California

ANTHONY BEILENSON,
State legislator, California

HOWARD KLEBANOFF,
State legislator, Connecticut

AARON JAFFE,
State legislator, Illinois

CHARLES DOCTER,
State legislator, Maryland

C. LAURENCE WISER,
State legislator, Maryland

DAVID LIEDERMAN,
State legislator, Massachusetts

JOHN BUSINGER,
State legislator, Massachusetts

WILLIAM SPENCE,
State legislator, Massachusetts

THOMAS MAHONEY,
State legislator, Massachusetts

PETER McCARTHY,
State legislator, Massachusetts

BEN BROWN,
State legislator, Georgia

WILLIAM X. WALL,
State legislator, Massachusetts

ALLAN McKINNON,
State legislator, Massachusetts

PETER MASNIK,
State legislator, Massachusetts

CHESTER ATKINS,
State legislator, Massachusetts

DOROTHY BRADLEY,
State legislator, Montana

WILLIAM NORMAN,
State legislator, Montana

JOHN STAIGMILLER,
State legislator, Montana

NANCIE FADELEY,
State legislator, Oregon

EDWARD MAGGIONONE,
State legislator, Rhode Island

MIKE O'CONNOR,
State legislator, South Dakota

DUAINE SWENSON,
State legislator, South Dakota

MIDGE MILLER,
State legislator, Wisconsin

DENNIS CONTA,
State legislator, Wisconsin

ANTHONY EARL,
State legislator, Wisconsin

ED JACKAMONIS,
State legislator, Wisconsin

HERBERT GROVER,
State legislator, Wisconsin

HARVEY DUEHOLM,
State legislator, Wisconsin

JOSEPH CZERWINSKI,
State legislator, Wisconsin

EDWARD NAGER,
State legislator, Wisconsin

FREDERICK KESSLER,
State legislator, Wisconsin

LLOYD BARBEE,
State legislator, Wisconsin

ROBERT NELSON,
State legislator, West Virginia

The following scientists are not public officials, but join in the sentiments expressed in the MEMORANDUM:

GEORGE WALD

S.E. LURIA

OWEN CHAMBERLAIN

JAMES D. BJORKEN

RICHARD BLANKENBECLER

LINUS PAULING

ROBERT HOFSTADTER

PIERRE NOYES

JOSHUA LEDERBERG

...RARY
...URT, U. S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

NO. 71 - 97

SALVATORE ORLANDO AND DOUGLAS KAPLAN,

PETITIONERS

V.

MELVIN LAIRD, ET AL.,

RESPONDENTS

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF ON BEHALF OF SENATOR MIKE GRAVEL

AMICUS CURIAE BRIEF OF SENATOR MIKE GRAVEL ON PETITION FOR CERTIORARI

MOTION

Amicus hereby moves for leave to file the attached amicus curiae brief in the abovecaptioned case. The interest of amicus in the present case is fully set out in the first portion of the amicus brief, which portion is fully incorporated herein by reference. In brief, amicus has an interest

as a Senator in insuring that the Constitution of the United States is upheld, that separation of powers is respected and that the power of Congress is maintained under the Constitution. Amicus thus has a vital interest in the present case because it raises critical constitutional issues as to whether the power of Congress has been arrogated by the Executive and whether the Constitution has been violated in a way that nullifies separation of powers.

Additionally, as a Senator, amicus has an interest and a perspective not shared or put forth by plaintiffs or defendants on the legislator's need for a decision in this case in order that Congress may know the extent of its constitutional powers vis a vis the President in regard to the decision to commit this nation to war and keep it in war.

Respectfully submitted,

Herbert O. Reid, Sr.
Counsel for amicus

INTEREST OF AMICUS

Amicus, Mike Gravel, is a United States Senator from the State of Alaska. As a Senator, amicus has an interest in insuring that the United States Constitution, which he is sworn to uphold, is followed in the area of war and peace. Amicus also has an interest as a Senator in insuring that the power of Congress is maintained under the Constitution; and in insuring that the concept of separation of powers, which grants certain powers to Congress and others to the Executive, receives the respect it deserves.

The United States Constitution provides that Congress shall have the power to declare war. Article I, Section 8, Clause 11. Though there has been no declaration of war in Indo-China, the nation has been and is fighting a major war in that part of the world. The price of the war has been enormous. More than 50,000 American men have been killed.

Over 300,000 Americans have been wounded. The nation has spent over 150 billion dollars on the war. The war has contributed significantly to our soaring inflation. It has diverted funds which would otherwise have been spent to rejuvenate cities and to raise the standard of living of millions of poorer citizens. It has led to a vast generation gap and to millions of citizens distrusting their government. The litany of the social and economic dislocations it has caused is gruesomely long.

Because the Constitution does give Congress the power to declare war, serious questions have long been raised and are being raised in this case as to whether the President, without explicit Congressional authorization, has the constitutional authority to wage a war of the size of the Indo-China war and with the enormous consequences of that war. Amicus has a vital concern with such questions because of his interest as a Senator in having

the Constitution followed and the power of Congress respected. Therefore, amicus urges the Court to hear and decide the questions at issue here.

REASONS FOR GRANTING THE WRIT

The legality of major wars which have not been explicitly authorized by Congress may well be the most critical constitutional issue facing this country. War is the most awesome act which the nation can undertake. Its consequences to life, liberties and property are enormous, as the war in Indo-China has made only too evident. It is clear that the nation should not be committed to such a far-reaching course of events unless the branch making the commitment and waging the war has the constitutional power to do so.

In regard to the Indo-China war, there has long been a strong body of criticism which holds that the Executive, the branch of government which has committed us to the war and